IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1583 of 2005

Mrs.Sangita Shankar Chirmule Petitioner
Vs.
Shri Shankar Krishanji Chirmule & anr. Respondents

Mr.M.R.Deshpande for petitioner.
Ms.Deepa R.Kamath for Resp.No.1.
Mr.K.V.Saste, APP for State.

CORAM: B.H.MARLAPALLE & SMT.R.S.DALVI,JJ.

February 08, 2006.

P.C.

. Heard the learned counsel for the respective parties. Petition No.E-2064 of 1989 came to be decided by the Family Court, Mumbai and by an order dated 17-1-1992 the learned Judge of the Family Court was pleased to direct the payment of Rs.400/- per month by way maintenance for the upbringing of minor son Sachin from the date of the application i.e.3-10-1989 and the respondent-husband was paying the said amount inasmuch as it was being deducted at source by his employer and remitted to the Family Court. The respondent-husband filed Misc. Application No.54 of 2003 in the said decided petition and pointed out that the son had crossed the age of 18 years some time in 1997 itself and on the date of the application he was about 23 years of age and, therefore, the applicant was not liable to pay

any maintenance amount to the said son. The learned Judge of the Family Court allowed the said application partly and recalled the order of maintenance at the rate of Rs.400/- per month with effect from 18-9-1997, in respect of the son. By the said order dated 26-7-2004 the learned Judge of the Family Court directed the adjustment of the deposited amount of Rs.32,800/- against the arrears of maintenance payable to the wife.

. Needless to mention that the wife has been directed to be paid maintenance at the rate of Rs.1100/- per month by the order dated 5-10-2002 and with effect from 12-1-2001.

. On hearing the learned counsel for the respective parties and considering the reasoning set out by the learned Judge of the Family Court in the impugned order dated 26-7-2004, we are satisfied that the same does not call for any interference or modifications. While keeping in mind the legal liability of the respondent-husband, the order has directed the excess amount of Rs.32,800/- to be adjusted against the maintenance payable to the wife. It is evident that the son is almost of 26 years of

age now and he should be able to support himself. At the same time he is not a student and, therefore, the order passed by the Family Court cannot be faulted with.

. We have also noted the submission made by the learned counsel for the respondent-husband that after the adjustment of Rs.32,800/- is effected, the wife is entitled to receive her maintenance amount at the rate of Rs.1100/- per month from 1st February 2006 and in case she does not receive the said amount, she is at liberty to approach the Family Court.

. The petition is hereby rejected summarily.

(SMT.R.S.DALVI,J.) (B.H.MARLAPALLE,J.)